

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RUFUS WILLIAMS,

Plaintiff,

v.

KEVIN DUGGAN,

Defendant.

Case No. 00-71298

Hon. John Corbett O'Meara

ORDER DENYING REQUEST TO REINSTATE CLAIM

Before the court is Plaintiff's request to reinstate claim, filed February 2, 2007. Plaintiff is a prisoner who initially filed a civil rights complaint pursuant to 42 U.S.C. § 1983 on March 21, 2000. This court dismissed Plaintiff's claims because he failed to exhaust administrative remedies pursuant to 42 U.S.C. § 1997e(a). Plaintiff appealed and the United States Court of Appeals for the Sixth Circuit affirmed. The final mandate was issued March 11, 2003.

Plaintiff now seeks to reinstate his claim against one of the initial defendants, corrections officer Kevin Duggan. Plaintiff contends that he re-filed his grievance against Duggan and has exhausted his administrative remedies. It appears that Plaintiff re-filed his grievance on July 14, 2005. The grievance was rejected because it was untimely pursuant to Michigan Department of Corrections procedural rules. Nonetheless, it appears that Plaintiff attempted to pursue the grievance through each step of the process.

Plaintiff contends that he may reinstate his claim against Duggan, having exhausted his administrative remedies. Plaintiff bases his argument on Thomas v. Woolum, 337 F.3d 720 (6th Cir. 2003), in which the Sixth Circuit ruled that the plaintiff exhausted his administrative remedies, notwithstanding the fact that he did not file his grievance in a timely manner.

Unfortunately for Plaintiff, Thomas has been overruled by the United States Supreme Court in Woodford v. Ngo, 126 S.Ct. 2378 (2006). The Woodford court ruled that filing an “untimely or otherwise procedurally defective administrative grievance” does not constitute proper exhaustion pursuant to 42 U.S.C. § 1997e(a). Id. at 2382.

In this case, Plaintiff’s re-filed grievance was not timely. Plaintiff did not, therefore, properly exhaust his administrative remedies and his suit may not be reinstated.

Accordingly, IT IS HEREBY ORDERED that Plaintiff’s February 2, 2007 request to reinstate claim is DENIED.

s/John Corbett O’Meara
United States District Judge

Dated: April 23, 2007

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, April 23, 2007, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager